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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1020 OF 2018
IN
WRIT PETITION NO.2803 OF 2017**

Smt. Mangal Shripati Injulkar

& Anr.

.. Applicants

In the matter of

D.Y. Patil Engineering & Technology

Kolhapur & Anr.

.. Petitioners

Vs.

Smt. Mangal Shripati Injulkar

& Anr.

.. Respondents

Mr. A.V. Anturkar, Senior Advocate, I/b. Sandeep S. Koregave for the petitioners.

Mr. Meelan Topkar for the applicants/respondents.

CORAM : A.K. MENON, J.

DATED : 12TH MARCH, 2019.

P.C. :

1. By this civil application, the applicants who were respondents in the above writ petition seek the permission to withdraw the amounts deposited by the petitioners in the Labour Court at Kolhapur. The deposit was made pursuant to the order passed by this Court on 6th March, 2017. The application proceeds on the basis that the applicants are entitled to withdraw the money in view of the fact that

the order of the Industrial Court continues to be enforceable. The writ petition challenging that the order was not served upon the applicants and in the meantime, the application under Section 33 C(2) had been filed and the applicants had succeeded in the matter. The writ petition meanwhile stood rejected and has not been restored.

2. The civil application taken out for restoration of the writ petition in the year 2015 was once withdrawn and thereafter a fresh civil application was taken out and that Civil Application(st)no.33376 of 2017 has been dismissed on 26th February, 2019 by a reasoned order. In this view of the matter, Mr. Topkar submitted that the respondents are unable to get their dues despite being deprived with the benefits for so many years and that they are in need of money to meet their daily expenses and medical needs. He submitted that the application may be allowed.
3. The application is opposed on behalf of the petitioners who have filed an affidavit in reply dated 19th April, 2018. In the affidavit, it is stated that the contents of the civil application are “incorrect” and the merits of the case has been referred to which is already been considered by the Industrial Court. It is contended that the applicants are trying to secure the monetary benefits by concealing the material directions of

the Industrial Court since the judgment of the Industrial Court is silent about the provisions of the Standard Code Rules that are required to be followed. It is contended that the petitioners have filed an application for restoration of the writ petition which was rejected. Merits of the case are sought to be dealt with. In effect, the only defence is that the amount is secured in the Labour Court and if the same is paid over to the applicants, it would be impossible to recover the amounts from them. On the other hand if the writ petition is heard on merits, the amounts will enure to the benefit of the succeeding party. There is no substance in the reply. No attempt is made to dispute the computation of the amounts that have been deposited in the Labour Court pursuant to an order of this Court. In my view, the application must succeed.

4. In these circumstances, I pass the following order:

- (i) Civil application allowed in terms of prayer clause (i).
- (ii) The Labour Court shall permit withdrawal of the amounts on presentation of an authenticated copy of this order.

After this order was passed Mr. Koregave seeks stay of operation of the order. The request is declined.

(A.K.MENON,J.)